IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 113 OF 2006

Rais Ahmed Riyazuddin Siddique ...Petitioner.
V/s.
The State of Maharashtra & Ors. ...Respondents.

Adv.Shri Amin H. Solkar for the Petitioner.
Shri D.S.Mhaispurkar, A.P.P. for the State.

CORAM: R.S.Mohite, J.
DATE : 24th January, 2006.

P.C.:

1. This is petition impugning the show cause notice dated 06.01.2006 issued by Special Executive Magistrate, Andheri, Bombay calling upon the Petitioner to show cause as to why bond of Rs.25,000/- with two sureties of Rs.12,500/- each should not be taken from the Petitioner.

2. Basis of the order is that, Petitioner is so desperate and dangerous to the public at large and without taking security is hazardous to the community. This ground is contemplated in section 110(g) of the Code of Criminal Procedure. In my view, show-cause notice is issued in the format required under section 110 read with section 111 of the Code of Criminal Procedure. There is, however, a requirement in the show-cause notice that Petitioner should attend the office of the Executive Magistrate alongwith two

sureties. According to me, such requirement cannot be said to be one as contemplated by Section 111 of the Code of Criminal Procedure. I am informed that the next date before the Executive Magistrate is 3rd February, 2006. Advocate for the Petitioner says that if all the points are kept open and if his client is allowed to attend without two sureties, then he will appear before the next date before Executive Magistrate. Needless, to say that Petitioner would be entitled to raise all the contentions in his defence in an enquiry which may be held. Subject to clarification that the Petitioner will be entitled to attend without presence of the sureties and the further clarification is that Special Executive Magistrate would be entitled to exercise his powers under section 116(3) to ask the Petitioner to execute the interim bond with or without sureties as also to pass order in accordance with law, Petition is disposed off. There is further clarification that if the order for interim bond with sureties is made by the Executive Magistrate under section 116(3), the Petitioner will not be taken in custody forthwith and three days time will be given to him to furnish his sureties. It is clarified that this order should not be construed as direction to the Special Executive Magistrate to insist upon interim bond under section 116(3). That matter has to be decided on his own discretion and merits.

(R.S.Mohite, J.)